



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Authorizing City Manager to Execute Improvement Deferral Agreement for 21 East Elm Street

**MEETING DATE:** October 5, 2011

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Adopt resolution authorizing City Manager to execute Improvement Deferral Agreement for 21 East Elm Street.

**BACKGROUND INFORMATION:** Ann H. Peden (Owner) has submitted a building permit application to allow tenant improvements to an existing building located at 21 East Elm Street. As a condition of the building permit (B11-0970), the construction of public improvements is required.

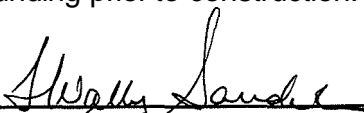
The required public improvements along Elm Street and Main Street include the installation 180 feet of concrete sidewalks, curb, gutter, a curb return, and 30 feet of 12-inch storm drain pipe; replacement of 3,030 square feet of asphalt concrete; and the replacement of an above-ground power feed with an underground power feed to the building (Exhibit A). Owner has requested that the required improvements be deferred.

Owner has executed an Improvement Deferral Agreement and paid the necessary document preparation and recording fees for the agreement. The agreement also states that the owner agrees to pay for and complete the design and installation of the required improvements on Elm Street and Main Street in accordance with City Standards, including payment of engineering and other applicable City fees, at the time of the widening of Main Street, or at the request of the City, whichever occurs first.

Staff recommends approval of the Improvement Deferral Agreement.

**FISCAL IMPACT:** None.

**FUNDING AVAILABLE:** Property owner funding prior to construction.

  
F. Wally Sandelin  
Public Works Director

Prepared by Chris Boyer, Junior Engineer  
FWS/CRB/pmf  
Attachment  
cc: Senior Civil Engineer Chang  
Ann H. Peden

APPROVED:

  
Konrad Bartlam, City Manager

Development: 21 East Elm Street  
Developer:  
Engineer:

Acres:  
Date: 8/17/11

TOTAL COST OF PROJECT IMPROVEMENTS

| <u>Item</u>  | <u>Description</u>                            | <u>Quantity</u> | <u>Unit</u> | <u>Price</u> | <u>Total</u>       | <u>Quantity</u> | <u>Total</u>                |
|--|---|-----------------|-------------|--------------|--------------------|-----------------|-----------------------------|
| <b><u>Street System</u></b>                              |   |                 |             |              |                    |                 |                             |
| 1  | Vertical Curb and Gutter                      | 180             | LF          | 25.00        | 4,500.00           | 180             | 4,500.00                    |
| 2  | Sidewalk                                      | 1,350           | SF          | 6.00         | 8,100.00           | 1,350           | 8,100.00                    |
| 3  | Curb Return, including Handicap Ramp          | 1               | EA          | 15,000.00    | 15,000.00          | 1               | 15,000.00                   |
| 4  | Concrete Subgrade Compaction                  | 1,350           | SF          | 3.00         | 4,050.00           | 1,350           | 4,050.00                    |
| 5  | Side Inlet Catch Basin                        | 1               | EA          | 2,272.00     | 2,272.00           | 1               | 2,272.00                    |
| 6  | 12" Storm Drain Pipe (RCP)                    | 30              | LF          | 40.00        | 1,200.00           | 30              | 1,200.00                    |
| 7  | Aggregate Base, Class II (0.50')              | 3,030           | SF          | 0.90         | 2,727.00           | 3,030           | 2,727.00                    |
| 8  | Asphalt Concrete, Type B (0.30')              | 3,030           | SF          | 2.00         | 6,060.00           | 3,030           | 6,060.00                    |
| 9  | Compact Original Ground (0.50')               | 3,030           | SF          | 0.20         | 606.00             | 3,030           | 606.00                      |
| 10   | Remove Existing Pavement                      | 3,030           | SF          | 7.00         | 21,210.00          | 3,030           | 21,210.00                   |
| 11   | Street Name Sign & Post                       | 1               | EA          | 511.00       | 511.00             | 1               | 511.00                      |
| 12   | Replace Aboveground Power Feed with Undergrou | 1               | EA          | 5,000.00     | 5,000.00           | 1               | 5,000.00                    |
| <b>Subtotal</b>  |   |                 |             |              | <b>\$66,236.00</b> | <b>Subtotal</b> | <b>\$71,236.00</b>          |
| Total Construction Cost                                  |   |                 |             |              |                    |                 | \$71,236.00                 |
| Engineering & Administration (10% of Construction Costs) |   |                 |             |              |                    |                 | \$7,123.60                  |
| Contingencies (10% of Construction Costs)                |   |                 |             |              |                    |                 | \$7,123.60                  |
| <b>TOTAL COST</b>  |   |                 |             |              |                    |                 | <b>A. Total \$85,483.20</b> |

WHEN RECORDED, RETURN TO:

City Clerk  
City of Lodi  
221 West Pine Street  
Lodi, CA 95240

IMPROVEMENT DEFERRAL AGREEMENT

21 East Elm Street, Lodi, California  
(APN 043-082-03)

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and ANN H. PEDEN, hereinafter referred to as "Owner".

RECITALS:

Owner is the owner of that certain real property situated in the City of **Lodi**, County of San Joaquin, known as 21 East Elm Street (APN 043-082-03) and described as follows:

The East 50 feet of the South half of Block 25, as said Block is delineated and designated on that certain map entitled, "Mokelumne" (now City of Lodi), filed for record August 25, 1869, at 8:40 a.m. and recorded in Book of maps and plats, Volume 4, page 12, San Joaquin County Records.

Building application(B 11-0970)has been submitted to allow a tenant improvement to an existing building on the subject property. Installation of public improvements along Elm Street and Main Street are required as a condition of permit issuance in accordance with existing City ordinances and policies regarding off-site improvements as set forth in Title 15, Chapter 15.44 of the Lodi Municipal Code. Required improvements include, but are not limited to, the installation 180-feet of concrete sidewalks, curb, gutter, a curb return, 30-feet of 12-inch storm drain pipe, replacement/installment of 3,030 square feet of asphalt concrete and the replacement of an aboveground power feed with an underground power feed to the building. Owner is desirous of complying with existing City ordinances and policies regarding off-site improvements. Owner has requested that the improvements on Elm Street and Main Street be deferred.

Council of the City will approve the deferral of the required Elm Street and Main Street improvements on condition that the Owner first enters into and execute this agreement with City.

NOW THEREFORE, in order to insure satisfactory performance by Owner of Owner's obligations under said City Code, the parties agree as follows:

1. Owner agrees to pay for and complete the design and installation of the required improvements on Elm Street and Main Street in accordance with City Standards, including payment for engineering and other applicable City fees, at the time of the widening of Main Street, or at the request of the City, whichever occurs first.
2. Owner agrees to undertake the design and construction of the required improvements within 30 days after written notice is given by the City, subject to Item #1 above, and will complete the required improvements within 120 days from the date of notice.

3. This agreement shall run with the land and be binding on the Owner, its heirs, successors or assigns.
4. If Owner fails to complete the required improvements, or make the fee payments as required by Item #1 of this Agreement within the time period specified in Item #2 above, the City shall be entitled, at its election, to either 1) file suit against Owner, its heirs, successors or assigns, for the full value of the improvements at the time period specific in Item #2 above plus attorney fees, or 2) complete the improvements at the expense of Owner, and file suit against Owner, its heirs, successors or assigns for the costs incurred, plus attorney fees. In either case, the City shall be entitled to file a lien against said property for the full value of the improvement costs.
5. A copy of the Agreement shall be recorded in the office of the San Joaquin County Records, P. O.Box 1968, Stockton, California 95201-1968.
6. All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid.

Notices required to be given to City shall be addressed as follows:

F. Wally Sandelin  
Public Works Director  
City of Lodi  
P. O.Box 3006  
Lodi, CA 95240-1910

Notices required to be given to Owner shall be addressed as follows:

Ann H. Peden  
12272 Jerri Drive  
Glen Ellen, CA 95442

IN WITNESS WHEREOF, the parties hereto have set their hands the day, month and year appearing opposite their names.

CITY OF LODI, a Municipal Corporation

Dated: \_\_\_\_\_ 2011 ■

By: \_\_\_\_\_  
Konradt Bartlam, City Manager


Attest: \_\_\_\_\_  
Randi Johl, City Clerk

Dated: August 25<sup>th</sup> 2011

ANN H. PEDEN

Ann H. Peden  
see attached for  
notarization

Approved as to form:

  
D. Stephen Schwabauer  
City Attorney

Dated: Sept 8 2011

State of California )  
County of Sonoma )

## CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

On August 25, 2011 before me, Jolene Cortright, Notary Public,  
(here insert name and title of the officer)

personally appeared Ann H Peden

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the  
State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Jolene Cortright



(Seal)

### OPTIONAL INFORMATION

*Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document*

#### Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled for the purpose of IMPROVEMENT DEFERRAL AGREEMENT containing 2 pages, and dated 8-25-11

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)  
☐ Attorney-in-Fact  
☐ Corporate Officer(s) \_\_\_\_\_ Title(s) \_\_\_\_\_

- ☐ Guardian/Conservator  
☐ Partner- Limited/General  
☐ Trustee(s)  
☐ Other: \_\_\_\_\_

representing: \_\_\_\_\_  
Name(s) of Person(s) or Entity(ies) Signer is Representing

#### Method of Signer identification

Proved to me on the basis of satisfactory evidence:  
☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:  
Page # \_\_\_\_\_ Entry # \_\_\_\_\_

Notary contact: \_\_\_\_\_

#### Other

- ☐ Additional Signer(s) ☐ Signer(s) Thumbprint(s)  
☐ \_\_\_\_\_

RESOLUTION NO. 2011-154

A RESOLUTION ~~OF~~ THE LODI CITY COUNCIL  
APPROVING IMPROVEMENT DEFERRAL  
AGREEMENT WITH ANN H. PEDEN FOR  
21 EAST ELM STREET

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the Improvement Deferral Agreement between the City of Lodi and Ann H. Peden for installation of public improvements for the facility located at 21 East Elm Street; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the agreement on behalf of the City of Lodi.

Dated: October 5, 2011

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I hereby certify that Resolution No. 2011-154 was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 5, 2011, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Katzakian, Mounce, Nakanishi,  
and Mayor Johnson

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

  
RANDI JOHL  
City Clerk

CITY COUNCIL

BOB JOHNSON, Mayor  
JOANNE L. MOUNCE,  
Mayor Pro Tempore  
LARRY D. HANSEN  
PHIL KATZAKIAN  
ALAN NAKANISHI

**CITY OF LODI**  
**PUBLIC WORKS DEPARTMENT**

CITY HALL, 221 WEST PINE STREET  
P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 333-6706  
FAX (209) 333-6710  
EMAIL [pwdept@lodi.gov](mailto:pwdept@lodi.gov)  
<http://www.lodi.gov>

KONRADT BARTLAM  
City Manager  
RANDI JOHL  
City Clerk  
D. STEVEN SCHWABAUER  
City Attorney  
F. WALLY SANDELIN  
Public Works Director

September 29, 2011

Ann H. Peden  
12272 Jerri Drive  
Glen Ellen, CA 95442

SUBJECT: Adopt Resolution Authorizing City Manager to Execute Improvement  
Deferral Agreement for 21 East Elm Street

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, October 5, 2011. The meeting will be held at 7 p.m. in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the consent calendar and is usually not discussed unless a Council Member requests discussion. The public is given an opportunity to address items on the consent calendar at the appropriate time.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Randi Johl, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Chris Boyer, Junior Engineer, at (209) 333-6800, extension 3321.

  
for: F. Wally Sandelin  
Public Works Director

FWS/pmf

Enclosure

cc: City Clerk